



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

TJR  
Docket No: 4451-00  
26 December 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 3 May 1967 at the age of 17.

Your record reflects that on 12 September 1967 you submitted a written statement in which you admitted to participating in homosexual acts since the age of 13. This statement also indicated that you had failed to report your pre-service involvement in homosexual activities. On 30 October 1967, following a investigation by the Naval Investigative Service Office, you submitted a written statement in which you admitting to participating in homosexual acts for compensation.

On 12 January 1968 you were convicted by summary court-martial (SCM) of a 14 day period of unauthorized absence (UA). You were sentenced to reduction to paygrade E-1, forfeitures totalling \$50, and confinement at hard labor for 30 days. Shortly thereafter, on 23 January 1968, you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for participating in homosexual acts. Your record also shows that prior to submitting this request, you conferred with a

qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Subsequently, your commanding officer recommended that you be issued an undesirable discharge by reason of unfitness due to homosexual involvement. The Board found your request was granted on and as a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. You received the undesirable discharge on 26 February 1968.

The Board, in its review of your entire record, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you were discharged after admitting to your sexual preference, and that under current standards you would have received an honorable discharge. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge given the nature of your homosexual acts. The Board noted that you admitted to participating in homosexual acts for compensation which is sufficient, even under current standards, to warrant an other than honorable discharge. The Board also concluded that you received the benefit of your bargain with the Marine Corps when you were discharged at your request rather than being tried by court-martial, which could have resulted in a lengthy period of confinement as well as a punitive discharge. The Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director